

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 23-CV-22629-RAR

MANUEL JESUS ALONSO,

Plaintiff,

vs.

SUNBELT RENTALS, INC.

Defendant.

DEFENDANT'S REMOVAL STATUS REPORT

Defendant Sunbelt Rentals, Inc. (“Sunbelt”), provides its Removal Status Report in compliance with the Court’s July 17, 2023 Order, ECF 4, and states:

1. A plain statement of the nature of the claim and any counterclaim, cross-claim or third-party claim made in state or federal court, including the amount of damages claimed and any other relief sought.

Plaintiff Manuel Jesus Alonso (“Plaintiff”) asserts the following causes of action in the Amended Complaint: (1) interference in violation of the Family and Medical Leave Act (“FMLA”) (Count II); and (2) retaliation in violation of the FMLA (Count III). There are no counterclaims currently pending against Plaintiff.

In state court discovery prior to removal, Plaintiff indicated he is seeking \$75,000 in back pay, \$120,000 in front pay, an undetermined amount of lost benefits, an undetermined amount to compensate for emotional distress, and an undetermined amount of punitive damages. The Amended Complaint also seeks reinstatement, liquidated damages, attorneys’ fees and costs, and all interest allowable by law. ECF 1-2 at 11-18.

2. A plain statement of the grounds for removal and a listing of all parties to the action, including parties to any third-party claim.

Plaintiff's Amended Complaint asserts claims under the FMLA, which is a law of the United States. Sunbelt removed this case because it is a civil action over which this Court has original federal question jurisdiction pursuant to 28 U.S.C. § 1331. The only parties to the action are Plaintiff and Sunbelt.

3. A list of all pending motions.

There are no motions pending at this time.

4. A brief statement by each Defendant explaining whether or not each has joined in or consented to the notice of removal.

Sunbelt is the only defendant in this action. Sunbelt filed the Notice of Removal and consents to it.

5. A statement regarding whether the Defendant(s) have removed the action within thirty (30) days after the receipt by the Defendant(s) of a copy of the initial pleading setting forth the claim for relief upon which the action or proceeding is based.

Plaintiff removed Plaintiff's FMLA claims within 30 days, in satisfaction of 28 U.S.C. § 1446(b)(3). Specifically, on March 14, 2023, Plaintiff, filed a civil action against Sunbelt in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, lodging a single claim against Sunbelt for workers' compensation retaliation. ECF 1-3 at 6-9. On June 15, 2023, Plaintiff filed an Amended Complaint, asserting claims for: (1) workers' compensation retaliation (Count I); (2) FMLA interference (Count II); and (3) FMLA retaliation (Count III). *Id.* at 38-44. This was the first time Plaintiff alleged federal claims. But that filing was improper because Plaintiff did not first seek leave. So on June 21, 2023, Plaintiff filed a Motion for Leave to File his Amended Complaint. *Id.* at 45-54. On July 3, 2023, the state court entered an Agreed Order granting leave to file the Amended Complaint. *Id.* at 64-65. On July 14, 2023, Sunbelt

removed Plaintiff's FMLA interference (Count II) and FMLA retaliation claims (Count III) to federal court, citing federal question jurisdiction. ECF 1.

Counsel for the removing party shall provide copies of this Notice to all concerned Parties.

A copy of the Court's July 17, 2023 Order of Referral and Notice of Court Practices in Removal Cases, ECF 4, was electronically transmitted to Plaintiff's counsel by the Court on July 17, 2023 and also sent to Plaintiff's counsel by counsel for Sunbelt on July 27, 2023. Sunbelt will serve on Plaintiff a copy of this Removal Status Report through CM/ECF.

DATED: July 28, 2023.

Respectfully submitted,

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